REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

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NOTIFICATION

No. 1167|LA.7|61.

Dated, Trivandrum, 17th March 1961.

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and Memorandum regarding delegated legislation is published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

The Kerala Land Tax Bill, 1961.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1961.

THE KERALA LAND TAX BILL, 1961

A

BILL

to provide for the levy of a basic tax on lands in the State of Kerala.

Preamble.—WHEREAS it is deemed necessary to provide for the levy of a basic tax on lands in the State of Kerala;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Kerala Land Tax Act, 1961.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force,—

(i) in the area comprising the former State of Travancore-Cochin, with effect on and from the 1st day of April, 1956; and

(ii) in the Malabar area, with effect on and from the 1st day of September, 1957.

2. **Exemptions.**—(1) Nothing in this Act shall apply to—

(i) lands belonging to the Government;

(ii) Sreepandaravaka lands belonging to the Sree Padmanabhaswami Temple; and

(iii) Sreepadam lands belonging to the Sreepadam Palace.

(2) The Government may, by notification in the Gazette, exempt any land belonging to any public body or institution from the provisions of this Act, if the Government are satisfied that such exemption is necessary in the public interest; and the Government may, by like notification, cancel any such exemption.

3. **Definitions.**—In this Act, unless the context otherwise requires,—

(1) "basic tax" means the tax imposed under the provisions of this Act;

(2) "jenmikaram" means jenmikaram as defined in the Travancore Jenmi and Kudiyan Act of 1071;

(3) "landholder" means the registered holder for the time being of any land and includes his legal representatives and assigns, and also includes any person who under any law for the time being in force is liable for the payment of public revenue due in respect of land held by him and, in the case of lands which have not been surveyed, the proprietor of the land;

(4) "Malabar area" means the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956;

(5) "Oodukur holdings" means holdings which are by customary law recognised as such;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "prescribed authority" means the authority appointed by the Government by notification in the Gazette to perform the functions of the prescribed authority under this Act;

(8) "State" means the State of Kerala;

(9) "Thiruppuvaram or Melvaram" means Thiruppuvaram or Melvaram entered as such in the revenue accounts.

4. **The arrangement under the Act to be a general revenue settlement.**—Notwithstanding anything in any enactment, grant, deed or other transaction, the arrangement herein made for the levy of the basic tax shall be deemed *inter alia* to be a general revenue settlement of the State:

Provided that—

(1) the pattom fixed by the Government, at the general revenue settlement of 1061 in respect of jenmom lands, shall be the pattom for all purposes of the Travancore Jenmi and Kudiyan Act of 1071;

(2) the registers of jenmikarams prepared in accordance with the jenmikaram settlement and the jenmikaram fixed thereunder shall remain in force for the purpose of the said Act;

(3) in the case of lands belonging to incorporated Devaswoms in the Cochin area, the basic tax levied under this Act shall be in lieu of the land revenue assessment charged on such lands immediately before the commencement of this Act and the rent payable by the tenant in respect of such lands shall be reduced or enhanced to the same extent as the land revenue assessment thereon is reduced or enhanced by the levy of basic tax;

(4) in the case of lands belonging to unincorporated Devaswoms in the Cochin area, the rent payable by the tenant shall be reduced or enhanced to the same extent as the land revenue assessment charged on such lands immediately before the commencement of this Act is reduced or enhanced by the levy of basic tax.

Explanation.—In this section "Cochin area" means the area comprising—

(i) the portion of the State of Kerala which before the first day of July, 1949 formed the State of Cochin, less the enclaves absorbed in the Malabar district under the Provinces and States (Absorption of Enclaves) Order, 1950; and

(ii) the enclaves which formed part of the Malabar district absorbed in the State of Travancore-Cochin under the said Order.

5. **Charge of land tax.**—(1) Subject to the provisions of this Act there shall be charged and levied a tax called "basic tax" on all lands, of whatever description and held under whatever tenure,—

(i) situated in the area comprising the former State of Travancore-Cochin for every financial year commencing on and from the 1st day of April, 1956;

(ii) situated in the Malabar area, for the period commencing on and from the 1st day of September, 1957, and ending on the 31st day of March, 1958, and thereafter for every financial year commencing on and from the 1st day of April, 1958.

(2) The basic tax charged on any land shall be paid by the landholder of that land:

Provided that where any land is in the possession of a tenant or other person not being the landholder and the income obtained by the landholder from that land is less than the basic tax payable thereon, the excess of the basic tax over such income shall be paid by the tenant or other person in possession.

(3) The basic tax charged and levied under this Act shall be deemed to be public revenue due on land within the meaning of the Revenue Recovery Act for the time being in force and shall be recoverable under the provisions of that Act.

6. **Rate of basic tax.**—(1) The basic tax charged and levied under section 5 shall, subject to the provisions of sub-section (2) and section 7, be at the rate of two rupees per acre per annum.

(2) Notwithstanding anything contained in sub-section (1), where a landholder or other person liable to pay basic tax proves to the satisfaction of the prescribed authority that the gross income from any land was less than ten rupees per acre per annum, the basic tax payable on such land shall be at a rate fixed by the prescribed authority calculated at one-fifth of the gross income from such land:

Provided that pending the fixation of the rate at which basic tax is payable on any land under this sub-section, the landholder shall be liable to pay basic tax on such land at the rate of two rupees per acre per annum; and on fixation of the rate of basic tax, the excess tax, if any, paid or collected, shall be refunded to the person entitled thereto:

Provided further that the Government may, having regard to the potential productivity of any land used principally for growing cocoanut, arecanut, pepper, tea, coffee, rubber, cardamom or cashew or any other special crop, plant or tree that may be specified by the Government by notification in the Gazette, levy and collect basic tax at the rate of two rupees per acre per annum on such land, notwithstanding the fact that such crops, plants or trees had not begun to yield or bear and that for the time being no income was made from that land or that the income made was less than ten rupees per acre per annum.

Explanation 1.—For the purposes of this section 'gross income' with reference to any land shall mean the gross income actually made from the land or the gross income that could be made from the land with due diligence, whichever is higher.

Explanation 2.—Lands comprised in the same survey or sub-division number and held by the same landholder shall be treated as a single unit for calculating the gross income for the purposes of this section.

Explanation 3.—For the purposes of calculating the gross income in money from any land the cash value of the produce from the land shall be commuted into money at the average market rate of such produce for six years immediately preceding the commencement of this Act.

(3) An application for fixation of the rate of basic tax under sub-section (2) shall be in the form specified by the

Government by notification in the Gazette and shall be made to the prescribed authority within four months from the date of publication of this Act in the Gazette.

(4) The prescribed authority shall, as far as may be practicable, pass orders on the application within six months from the date of the first appearance of the applicant.

(5) The order of the prescribed authority fixing the basic tax shall be communicated to the landholder concerned and any other person liable to pay the basic tax.

7. **Provisional assessment of basic tax in the case of unsurveyed lands.**—(1) Notwithstanding anything contained in section 6, in the case of lands which have not been surveyed, the prescribed authority may make a provisional assessment of the basic tax payable on such lands. For the purpose of making the provisional assessment the prescribed authority shall, by notice, call upon the landholder concerned and any other person in possession of the lands to furnish such particulars relating to the lands as the prescribed authority considers necessary, within such time as may be specified in the notice.

(2) If the prescribed authority is satisfied that the particulars furnished by the landholder or other person are correct and complete he shall make a provisional assessment of the basic tax payable on such lands at the rate specified in sub-section (1) or sub-section (2) of section 6, as the case may be, on the basis of the particulars so furnished.

(3) If the particulars called for under sub-section (1) are not furnished within the time specified therefor or if the particulars furnished appear to the prescribed authority to be incorrect or incomplete, the prescribed authority may make a provisional assessment of the basic tax payable on such lands at the rate specified in sub-section (1) or sub-section (2) of section 6, as the case may be, to the best of his judgment:

Provided that before making a provisional assessment under this sub-section the landholder concerned and any other person liable to pay the tax under the provisional assessment shall be given an opportunity to show cause against the proposed assessment.

(4) The order of the prescribed authority under sub-section (3) shall be communicated to the landholder concerned and any other person liable to pay the provisional assessment.

(5) The amount of the tax under the provisional assessment fixed under this section shall be recoverable in the same manner as the basic tax.

(6) The Government shall, as soon as may be, and in any case before the expiry of a period of five years from the date of publication of this Act in the Gazette, cause a survey to be conducted of the unsurveyed lands and thereupon the prescribed authority shall make a regular assessment of the basic tax payable in respect of such lands. The provisions of section 6 shall apply to such regular assessment, provided that the time for making application for the fixation of the rate of basic tax under sub-section (2) of section 6 shall be four months from the date of completion of the survey of the land. After a regular assessment has been made under section 6 any amount paid towards the provisional assessment shall be deemed to have been paid towards the regular assessment and where the amount paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the person entitled thereto.

8. **Special provisions relating to basic tax for periods prior to the date of publication of the Act.**—(1) Where in respect of any land basic tax has been paid or collected for the period between the date of the commencement of this Act and the date of publication of this Act in the Gazette, at a rate higher than the rate at which basic tax is payable on such land under this Act, then the excess tax so collected for the aforesaid period shall be refunded.

(2) Nothing in this Act shall be deemed to require a person to pay basic tax on any land situated in the area comprising the former State of Travancore-Cochin for the period between the 1st day of April, 1956 and the 1st day of September, 1957, at a rate higher than Rs. 1-9-0 (One rupee and fifty-six naye paise) per acre per annum.

(3) Any person entitled under sub-section (1) to a refund of excess tax paid or collected may apply to the prescribed authority in the prescribed form within a period of ninety days from the date on which the order finally fixing the basic tax payable under this Act was communicated to him; and no claim for such refund shall be entertained thereafter.

9. **Appeals.**—(1) Any person aggrieved by the orders of the prescribed authority under sub-section (2) of section 6 or under sub-section (3) of section 7 may appeal to the Collector

of the District in which the land is situated, and if the land is situated in more than one District the Collector of the District in which the major portion of the land is situated:

Provided that no such appeal shall lie unless the tax has been paid.

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner and shall be accompanied by a fee of five rupees.

(3) The appeal shall be presented within thirty days of the receipt of the order appealed against but the appellate authority may admit an appeal after the expiration of the period aforesaid if it is satisfied that the appellant had sufficient cause for not presenting the appeal within that period.

(4) The appellate authority may, after giving the prescribed authority and the appellant an opportunity of being heard, pass such orders thereon as it thinks fit.

(5) The order of the appellate authority shall be communicated to the appellant and to the prescribed authority.

(6) The order of the appellate authority shall, subject to the provisions of section 10, be final and shall not be called in question in any court of law.

(7) Where the amount of basic tax or tax under the provisional assessment paid is in excess of the amount due under the order in appeal such excess shall be refunded to the person entitled thereto.

10. **Power of revision by Board of Revenue.**—(1) The Board of Revenue may, at any time, of its own motion or within thirty days from the date of the order of the appellate authority on the application of any party, call for and examine the record of any proceeding pending before or disposed of by the appellate authority and may pass such orders as it deems fit:

Provided that no order enhancing the rate of basic tax or the amount of provisional assessment shall be passed without notice to the party, who may be affected by the order.

(2) Where the amount of basic tax or tax under the provisional assessment paid is in excess of the amount due under the order in revision, such excess shall be refunded.

11. **Construction of stipulation in contract, etc.**—(1) Where in any contract or agreement or lease or other transaction, there is a stipulation to pay the land revenue assessment of

any land or any amount in lieu thereof, such stipulation shall be construed as a stipulation to pay the amount of basic tax on the said land charged and levied under this Act.

(2) If by virtue of section 6, the existing land tax charged and levied on any land is reduced, the tenant who, under contract, is liable to pay the land tax, shall be entitled to the benefit of the reduction in all cases where the michavaram or rent is shown to be inclusive of land tax as evidenced by document.

12. **Jenmikaram.**—Jenmikaram charged on and payable in respect of any land under the Travancore Jenmi and Kudiyan Act of 1071 shall continue to be paid to the Jenmies in addition to the basic tax thereon payable to the Government.

13. **Thiruppuvaram.**—Thiruppuvaram or Melvaram charged on and payable in respect of any land shall continue to be paid to those entitled to it as heretofore in addition to the basic tax thereon payable to the Government.

14. **Irrigation or water cess.**—Nothing in this Act shall affect the power of the Government to levy any rate, or alter any existing rate, of irrigation or water cess on any land as they deem fit.

15. **Officers under the Act.**—(1) The Government may appoint such officers as they deem necessary for the purpose of this Act.

(2) The appointment of such officers shall be notified in the Gazette.

16. **Bar of suits against Government and protection of action taken under the Act.**—(1) No suit against the Government shall be entertained in any Civil Court in respect of anything done or any order passed under this Act.

(2) No suit, prosecution or other legal proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

17. **Rectification of mistakes.**—At any time within four years from the date of any order passed by it the prescribed authority or the appellate authority or the revisional authority may, on its own motion, rectify any mistake apparent from the record and shall, within a like period, rectify any such

mistake which has been brought to the notice of the prescribed authority or the appellate authority or the revisional authority, as the case may be, by a landholder or other person liable to pay tax:

Provided that no such rectification shall be made which has the effect of enhancing the tax payable unless the landholder and any other person liable to pay tax have been given a reasonable opportunity of being heard in the matter.

18. Savings.—Nothing in this Act shall—

(a) affect the conditions of any agreement, grant or deed relating to any land except to the extent hereinbefore provided;

(b) affect any rights which have accrued to the Government before the date on which this Act comes into force.

19. **Rule making power.**—(1) The Government may make rules for carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) as to the procedure to be followed by the prescribed authority, and the appellate authority in the proceedings before them;

(b) as to the manner and mode of fixing the gross income from lands;

(c) as to the service of notices and the communication of orders to parties;

(d) for the apportionment of the basic tax charged on Oodukoor holdings;

(e) as to the mode of making refunds;

(f) for defining the powers and duties of the officers appointed under this Act;

(g) for determining the kists or instalments, in which the tax is payable and the dates on which such kists or instalments shall be due; and

(h) any other matter which has to be or may be prescribed for purposes of this Act.

(3) All rules made under this Act shall be laid for a period of not less than fourteen days before the Legislative Assembly, as soon as may be, after they are made, and

shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

20. Repeal.—The Land Tax Act, 1955 and the Kerala land Tax Ordinance, 1961 (Ordinance 2 of 1961), are hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court, in a recent judgment, held that the operative provisions of the Land Tax Act, 1955, namely sections 4, 5A and 7 were unconstitutional. Hence the basic tax under that Act could not be collected. To get over this situation, the Governor promulgated an Ordinance called the Kerala Land Tax Ordinance, 1961, providing for the levy of a basic tax, seeking to get over the objectionable features of the Land Tax Act, 1955, as pointed out by the Supreme Court. The present Bill is intended to replace the Ordinance by an Act of Legislature.

The Bill provides for the levy of a basic tax on lands in the State. The rate of tax proposed is Rs. 2 per acre per annum, but if the landholder or any other person liable to pay the tax proves to the satisfactions of the prescribed authority that the gross income from any land is less than Rs. 10 per acre per annum the basic tax payable on such land will be at a rate fixed by the prescribed authority calculated at one-fifth of the gross income. The Bill thus provides for a classification of lands mainly into two categories for purposes of the basic tax, namely, lands the income from which is not less than Rs. 10 per acre, and those the income from which is less than Rs. 10. Based on the above classification, the tax payable will, in no case, be more than one-fifth of the gross income from the land, actual or potential. By this, the objection that burden of tax is such that it will prove to be confiscatory, is sought to be got over.

The basic tax charged on any land has to be paid by the landholder of the land under normal circumstances. But if in any particular case the tax payable in respect of any land exceeds the income obtained by a landholder who is not in possession of the land, the excess of the tax over the income shall be paid by the persons in possession.

In view of the defects pointed out by the Supreme Court in respect of section 5A of the Land Tax Act, 1955 regarding the levy of provisional assessment in respect of unsurveyed

lands, suitable provisions have now been made to cure those defects. The landholder or other person liable to pay the basic tax will be called upon to furnish the necessary particulars for purposes of assessment. If the particulars so furnished appear to be correct and complete, the assessment will be made on the basis of such particulars. But if no particulars are furnished or the particulars furnished appear to be incorrect or incomplete, a best judgment assessment will be made, but before making such assessment an opportunity will be given to the person liable to pay the assessment to show cause against the proposal. The aggrieved party will also get the right of appeal to the appellate authority. The unsurveyed lands are required to be surveyed as early as possible and in any case within five years, and upon such survey, the regular assessment will be made. Any excess amount paid under the provisional assessment will be refunded.

Land belonging to the Government, Sreepandaravaka lands and Sreepadam lands will be exempt from the tax as at present. But the power of Government to notify other exemptions can be exercised only in respect of lands belonging to public bodies or institutions and that too only if they are satisfied that such exemption is necessary in public interest. The power of exemption in the hands of the Government is thus sought to be regulated and controlled.

The provisions of the Bill are to have retrospective operation from the date on which the Land Tax Act, 1955, came into force in the different areas. Any amount collected after the commencement of the Land Tax Act in excess of what is payable under the Bill, will be refunded to the persons entitled.

FINANCIAL MEMORANDUM

Clause 7(6) of the Bill enjoins that the Government shall, as soon as may be, and in any case before the expiry of a period of five years, cause to be conducted a survey of the unsurveyed lands. The approximate area of the unsurveyed lands is 7½ lakhs acres. It is proposed to complete the survey of the lands within a period of five years. The survey work would necessitate the employment of additional staff. The expenditure to be incurred on account of the additional staff for five years will be about Rs. 10 lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Government to make rules in respect of the matters specified therein. They relate inter alia to the procedure to be followed by the prescribed authority and the appellate authority, the manner and mode of fixing the gross income from lands, the apportionment of the basic tax charged on Oodukoor holdings, the determination of the Kists or instalments in which tax is payable. The matters in respect of which rules may be made are of a routine and administrative character. Moreover, the rules shall be subject to the scrutiny of the Legislative Assembly. The delegation of Legislative power is thus a normal character.

K. CHANDRASEKHARAN

REGISTERED No. M. 4631.

KERALA GAZETTE

EXTRAORDINARY

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NOTIFICATION

No. 1154|LA.7|61. *Dated, Trivandrum, 17th March 1961.*

The Following Bills together with the Statements of Objects and Reasons are published, as ordered by the Speaker under Rule 67 of the Rules of Procedure and Conduct of Business in the Assembly.

D. TIRUMALAI IYENGAR,
Secretary,
Legislative Assembly.

1. The Kerala Municipal Laws (Amendment) Bill, 1961.
2. The Agricultural Income Tax (Amendment) Bill, 1961.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1961.

L. A. Bill No. 3 of 1961

THE KERALA MUNICIPAL LAWS (AMENDMENT) BILL, 1961

A

BILL

to provide for the further extension of the term of office of the councillors of municipalities and for the postponement of the reconstitution of the Changanacherry Municipal Council.

Preamble.—WHEREAS it is expedient to provide for the extension of the term of office of the councillors of municipalities and for the postponement of the reconstitution of the Changanacherry Municipal Council;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Municipal Laws (Amendment) Act, 1961.

2. *Extension of term of office of Municipal Councillors.*—Notwithstanding anything contained in the Madras District Municipalities Act, 1920 (V of 1920), as in force in the Malabar District referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956, the Travancore District Municipalities Act, 1116 (XXIII of 1116), or the Cochin Municipal Act XVIII of 1113, the Government may by notification in the Gazette, extend the term of office of the councillors of any municipality constituted under any of the aforesaid Acts, which expires at noon on the 1st day of April, 1961, upto such date not later than the 1st day of September, 1961, as may be specified in the notification.

3. *Postponement of the reconstitution of the Changanacherry Municipal Council.*—Notwithstanding anything contained in section 45 of the Travancore District Municipalities Act, 1116 (XXIII of 1116), the Government may, by notification in the Gazette, for reasons to be stated in the notification, postpone the reconstitution of the Changanacherry Municipal Council, upto such date not later than the 1st day of September, 1961, as may be specified in the notification.

4. *Amendment of Act 23 of 1960.*—Sections 4 and 5 of the Kerala Municipal Laws (Amendment) Act, 1960 (Act 23 of 1960), shall be omitted.

5. *Repeal.*—The Kerala Municipal Laws (Amendment) Ordinance, 1961 (Ordinance No. 3 of 1961), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

The term of the councillors of the Municipalities in the State is due to expire on the 1st day of April, 1961. It is proposed that municipal elections throughout the State may be conducted under the unified Kerala Municipalities Bill, 1960, passed during the last session of the Legislative Assembly. After that Bill becomes law, rules have to be framed and wards delimited before the elections are held. It will not be possible to complete this work before 1st April, 1961. Hence it is necessary to extend the term of the present councillors.

The Changanacherry Municipal Council which was superseded by the Government had to be reconstituted before 1st March, 1961. Under the provisions of the Travancore District Municipalities Act, it was not possible to extend the time for the reconstitution of this council beyond the 1st March, 1961. Since it was desirable to hold elections to this council also along with the elections to the other municipal councils it was necessary to provide for the extension of the time for the reconstitution of this council beyond 1st March, 1961.

Since the Legislative Assembly was not in session and since there would not be time to pass the necessary Bill before the 1st March, 1961, after the Assembly meets, an Ordinance called the Kerala Municipal Laws (Amendment) Ordinance, 1961, was promulgated by the Governor on 21-2-1961. The Ordinance empowered the Government to extend the term of the Councillors till 1st September, 1961 and also to extend the time for the reconstitution of the Changanacherry Municipal Council up to 1st September, 1961.

The Bill seeks to replace the Ordinance by an Act of the Legislature.

P. P. UMMER KOYA.

L. A. Bill No. 4 of 1961

THE AGRICULTURAL INCOME TAX (AMENDMENT) BILL, 1961

A

BILL

further to amend the Agricultural Income Tax Act, 1950.

Preamble.—WHEREAS it is expedient further to amend the Agricultural Income Tax Act, 1950 (Act XXII of 1950), for the purposes hereinafter appearing;

BE it enacted in the Twelfth Year of the Republic of India as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Agricultural Income Tax (Amendment) Act, 1961.

(2) It shall be deemed to have come into force with effect on and from the 1st day of April, 1951.

2. **Amendment of Section 5 of Act XXII of 1950.**—In Section 5 of the Agricultural Income Tax Act, 1950 (Act XXII of 1950), hereinafter referred to as the principal Act, the Explanation at the end shall be numbered as Explanation 1 and after the Explanation so numbered, the following Explanation shall be inserted, namely:—

"Explanation 2.—Nothing contained in this section shall be deemed to entitle a person deriving agricultural income to deduction of any expenditure laid out or expended for the cultivation, upkeep or maintenance of immature plants from which no agricultural income has been derived during the previous year."

3. **Validation of certain proceedings.**—Notwithstanding anything contained in any judgment, decree or order of any court—

(a) all taxes levied, assessed or collected under the principal Act, shall for all purposes be deemed to be and to have always been levied, assessed or collected under that Act as amended by this Act; and

(b) all proceedings taken, orders passed and acts done by any officer, authority or Tribunal under the principal Act shall for all purposes be deemed to be and have always been validly taken, passed and done, and all such proceedings, orders and actions may be continued as if they were taken, passed and done, under the principal Act as amended by this Act:

Provided that nothing contained in this section shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the date of publication of this Act in the Gazette, if such act or omission was not an offence under the principal Act at the aforesaid date but for the provisions of this Act.

4. **Repeal.**—The Agricultural Income Tax (Amendment) ordinance, 1961 (Ordinance 1 of 1961), is hereby repealed.

STATEMENT OF OBJECTS AND REASONS

Under section 5 of the Agricultural Income Tax Act, 1950, the agricultural income of a person is to be computed after making certain deductions specified in that section. One of the deductions specified in the section is "any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of deriving the agricultural income." Amounts expended by assessees for the upkeep and maintenance of immature rubber plants, etc., from which no income was derived, were not being deducted in computing the agricultural income, since such amount could not be considered to be spent for the purpose of deriving the agricultural income. But the Supreme Court has recently reversed an earlier decision of the Kerala High Court and held that the amount expended on the superintendence, weeding, etc., of the whole estate should have been allowd against the profits earned and it is no answer to the claim for a deduction that part of those expenses produced no return in that year, because all the trees were not yielding rubber in that year.

As a result of this judgment it has become necessary to allow, in computing agricultural income, deductions not originally contemplated. Since agricultural income tax has been collected without allowing such deductions the question of paying large amounts by way of refunds also arose. As these matters would affect the revenues of the State it was decided that the Agricultural Income Tax Act should be amended retrospectively to provide that nothing in section 5 of the Act shall require the deductions of any expenditure laid out or expended for the cultivation, upkeep or maintenance of immature plants from which no agricultural income was derived during the previous year. Since the Assembly was not in session and amendment had to be made urgently, an Ordinance, namely, the Agricultural Income Tax (Amendment) Ordinance, 1961, was promulgated by the Governor on 17-1-1961 for the above purpose.

The Bill is intended to replace the Ordinance by an Act of the Legislature.

R. SANKAR.